IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.530 OF 2007
IN
SUIT NO.1032 OF 1980

Anjali Balkrishna Uchgaonkar. ..Plaintiff.

V/s.

Anand Ganesh Pathak & Ors. ..Defendants.

Mr.Prakash Shah a/w.Archana Gupta for Plaintiff.

Mr.G.T.Mehta & Mr.J.K.Mitra i/b M/s.Apte & Co. for Defendant Nos. 7, 8 and 9.

Mrs.J.Sidhwa i/b. M/s.Laxmi Jessani for Defendant Nos.1-D, 5(A)(i) to (iii) and 13.

CORAM: A.M.KHANWILKAR,J

DATE : AUGUST 9, 2007.

P.C. :

1. Although this Chamber Summons is opposed by the Counsel for the Plaintiff on the argument that the Order dated 24th March, 2006 issued peremptory direction to the Defendants to file Written Statement on or before 21st April, 2006 and on late presentation of Written Statement for any reason, the same would not be taken on record. However, I am inclined to accept the explanation offered on behalf of the Defendants/Applicants 1-D, 5A(i) to 5A(iii) and 13 that the said Defendants were served in April, 2006. Immediately thereafter, they took steps to

file Written Statement, which was kept ready on 7th July, 2006. Written Statement was presented before the Court on the earlier occasion, but the Court called upon the Applicants to file formal application. As a result, the present Application has been filed.

2. Assuming that there is delay in filing Written Statement at the instance of the present Applicants, in the interest of justice, I am inclined to condone the delay. This is so because the Suit has now been made returnable for hearing on 19th September, 2007. No prejudice will be caused to the Plaintiff, if the delay was to be condoned. Moreover, the Applicants/Defendants through Counsel assure that they will not insist for framing of any additional issues on account of filing of the present Written Statement.

3. In the circumstances, this Chamber Summons is made absolute in terms of prayer clause (a) and (b) on condition that the Applicants/Defendants to pay costs to the Plaintiff quantified at Rs.3,000/- within one week from today. Payment of costs is condition precedent for showing indulgence to the Applicant.

(A.M.KHANWILKAR,J)